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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,788	12/17/2001	Simon D. Byers	2000-0609	7127

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AT&T CORP.  
P.O. BOX 4110  
MIDDLETOWN, NJ 07748

EXAMINER

RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
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2177

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DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/022,788

Applicant(s)

BYERS, SIMON D.

Examiner

Susan F. Rayyan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-31 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 1-31 are pending.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-2,5-6,8-9,13-14,17-18, 20-23,26-27, 29-30 rejected under 35 U.S.C. 102(e) as being anticipated by Narlikar (Pub. No.: US 2002/0069241).**

**As per claims 1,13,22** Narlikar anticipates performing a method retrieving data accessible by posing a plurality of queries over the internet to at least one target server at paragraph 10, lines 1-10;

selecting a plurality of proxy server services at paragraph 18, lines 4-7;

transmitting a first one of the plurality of queries to a first one of the plurality of proxy server services for transmission to one of the at least one target servers at paragraph 19;

transmitting a second one of the plurality of queries to a second one of the plurality of proxy server services for transmission to one of the at least one target servers; and for each one of the plurality of queries, receiving from its corresponding proxy server

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service a reply from its corresponding target server at paragraph 10, lines 1-10 and paragraph 19.

Narlikar teaches selecting a plurality of proxy server services, transmitting a first one of the plurality of queries to a first one of the plurality of proxy server services for transmission to one of the at least one target servers, transmitting a second one of the plurality of queries to a second one of the plurality of proxy server services for transmission to one of the at least one target servers, and for each one of the plurality of queries, receiving from its corresponding proxy server service a reply from its corresponding target server at paragraph 10, lines 1-10 and paragraph 19.

**As per claims 2,14,23** same as claim arguments above and Narlikar anticipates: wherein said selecting step comprises: searching the network for proxy server services; for each service found in the searching step, testing the service using test criteria; and selecting those services meeting the test criteria at paragraph 18, lines 4-10 and paragraph 25, lines 12-24.

**As per claims 5,17,26** same as claim arguments above and Narlikar anticipates: wherein the selecting step includes selecting a primary list of proxy services meeting a first set of criteria and a secondary list of proxy services meeting a second set of criteria. at paragraph 18, lines 4-10 and paragraph 25, lines 12-24.

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**As per claims 6,18,27** same as claim arguments above and Narlikar anticipates: wherein the method further comprises the step of ranking the selected proxy server services according to test criteria, and wherein the transmitting step includes transmitting the query to a best-ranked available one of said services at paragraph 22.

**As per claims 8,20,29** same as claim arguments above and Narlikar anticipates: wherein the method further comprises the step of pausing for a substantially unpredictable time interval before performing the transmitting step at paragraph 28.

**As per claims 9,21,30** same as claim arguments above and Narlikar anticipates: wherein said transmitting step comprises transmitting the queries to random ones of the selected proxy server services at paragraph 25, lines 20-24.

**As per claim 10** same as claim arguments above and Narlikar anticipates: further comprising the step of constructing at least one of said queries based on replies received in response to previous queries at paragraph 19, lines 6-8.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 3-4,15-16,24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narlikar (Pub. No.: US 2002/0069241) in view of Mighdoll et al (US 6,332, 157).**

**As per claims 3,15,24** same as claim arguments above and Narlikar does not explicitly teach wherein the test criteria include retrieval time however Mighdoll does teach this limitation at col.6, lines 50-51 and col.7, lines 38-40. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to indicate to the user that a delay is possible and give the user the option of canceling the request at col.14, lines 5-7.

**As per claims 4,16,25** same as claim arguments above and Narlikar does not explicitly teach wherein the test criteria include number of errors in a response to a test query however Mighdoll does teach this limitation at col.6, lines 50-51. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to indicate to the user that a delay is possible and give the user the option of canceling the request at col.14, lines 5-7.

**6. Claims 7,19,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narlikar (Pub. No.: US 2002/0069241) in view of Witbrock et al. (US 6,581,057).**

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**As per claims 7,19,28** same as claim arguments above and Narlikar does not explicitly teach dummy queries however Witbrock does teach this limitation at col.4, lines 63-67. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to aid in searching for relevant documents.

**7. Claims 12,31 are rejected under 35 U.S.C. 102(e) as being anticipated by Narlikar (Pub. No.: US 2002/0069241) in view of Kaplan et al. (US 5,737,591).**

As per claims 12,31 same as claim arguments above and Narlikar does not explicitly teach further comprising the step of constructing a database view of the data received however Kaplan does teach this limitation at col.2, line 60, bridging to, col.3, line 2. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to provide a simple view of several result sets at one time.

***Allowable Subject Matter***

**8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

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**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (703) 305-0311. The examiner can normally be reached M-F: 8am - 4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on 703-305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for Official communications, (703) 746-7238 for After Final communications and (703) 746-7240 for Status inquiries and draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Susan Rayyan



July 2, 2004



GRETA ROBINSON  
PRIMARY EXAMINER